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REMARKS

Claims 16-29 and 59 were rejected under §103 as being unpatentable over Knapp (U.S. Patent No. 5,300,120) in view of Strandberg (U.S. Patent No. 4,886,064). Applicant respectfully traverses.

As acknowledged in the office action Knapp does not disclose "a plurality of medical components implanted in the patient and operatively coupled together to form an implantable medical device system." Thus, the office action asserts that Strandberg discloses that feature. Strandberg shows an implanted pacemaker wirelessly connected to body activity sensors positioned in the patient's body outside the pacemaker. The contention made in the office action is that in accordance with Knapp, each component of the overall system would have an identification code.

As pointed out previously, in Knapp, a hand held device reads the identification code and a decoder decodes it to identify the implanted component. The code is routed to a data bank and used to "access such data which has been stored corresponding to [the] transponder." Col. 3, line 67 to col. 4, line 1. As previously argued, claim 16 specifies that identification of each implanted component of a system is transferred to a remote data center where an *inventory* control module in data communication with the remote expert data center receives the information identifying each medical component implanted in the patient and updates an *inventory* module regarding *inventory* of each medical component implanted in the patient. Claim 59 similarly recites a "means for updating the *inventory* of the medical component in the remote expert data center based upon the information identifying of the medical component."

Unlike Knapp, claims 16 and 59 do not use the component identifying information to merely access data which has been stored corresponding to the transponder. The data bank 38 in Knapp is nothing more than a collection of information relating to the implanted component fitted with the particular transponder, which information can be accessed for review by the controller. There is no suggestion whatsoever that the data bank provides or can provide any inventory control function. There is absolutely no basis whatsoever to support the characterization of the data

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bank in Knapp as involving inventory control of the implanted components fitted with the transponder.

The office action correctly notes that one aspect of applicant's argument is that "the data bank in Knapp does not provide any inventory control function." (O.A. at p. 5) In response to Applicant's argument, the office action merely offers, without support, that "the broadest reasonable interpretation of the word 'inventory' would include a mere listing of information such as described in col. 2, lines 35-37." *Id.* The office action then goes on to say that "[I]t is unclear what special meaning the applicant is attempting to give to the term since the applicant himself uses many of the same items when defining the word 'inventory' (note Fig. 9, box 310 of the present application). (O.A. at pp. 5-6)

First of all, applicant is not attempting to give the term "inventory" a special meaning. In fact, the office action is failing to apply the plain ordinary meaning of the term. Further, in accordance with the plain ordinary meaning, the broadest reasonable interpretation of the term does not include a mere listing of information. According to *Webster's Ninth New Collegiate Dictionary* at page 636, the term "inventory" means "the quantity of goods or materials on hand: stock." This is the meaning that applicant is ascribing to the term "inventory." Claims 16 and 59 are to be examined with that meaning in order to ascertain what the applicant regards as his invention and its relation to the prior art. Thus, the inquiry during examination is patentability of the invention as the applicant regards it. *In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989). Applying applicant's interpretation, the contentions in the office action as well as the rejection of claims 16 and 59 must fail under §103.

Clearly, the plain and ordinary meaning definition of "inventory" does not embrace a mere listing of information. Moreover, in using the term in the claims, applicant is clearly seeking to distinguish a mere device registry data bank under the Safe Medical Device Act of 1990. Moreover, box 310 in Fig. 9 is not the controlling disclosure. Rather, it is box 324, which distinguishes the mere listing of implant data in box 310 from the inventory control function.

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The office action gratuitously offers: "If the data contained within the central data bank cannot provide any inventory control function as asserted by the applicant, then it is unclear what its purpose is." (O.A. at p. 6) In fact, Knapp sets forth the purpose, which the office action itself acknowledges. The purpose is to comply with the Safe Medical Device Act of 1990. Knapp is clear on that and does not indicate its purpose to be anything else.

The examiner's stance that any device that allows one to track and monitor implants will be considered to constitute an inventory control function improperly interprets the term "inventory." Applicant submits that upon properly interpreting the term "inventory" in claims 16 and 59, the combination of Knapp and Strandberg fails to render claims 16 and 59, as well as the claims dependent thereon, unpatentable.

The plain ordinary dictionary definition of "inventory" as set forth above applies to claims 16 and 59. Applicant, therefore, submits that all pending claims are in condition for allowance and requests that a notice of allowance should be issued in due course.

Respectfully submitted,

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